

Testimony By Emily Sheketoff

Chairman Ehlers, Representative Millender-McDonald, and Members of the Committee, thank you for inviting me to testify today on behalf of the American Library Association (ALA). I am here to express our deep concern over the recently announced agreement between the Smithsonian Institution's Business Ventures Unit and Showtime Networks for the creation of "Smithsonian Networks." ALA's concerns are based on the information about the agreement from press releases and news articles, because the details of the contractual agreement have not been provided, as yet, to the public.

The American Library Association is the oldest and largest library association in the world with some 65,000 members, primarily school, public, academic and some special librarians, but also trustees, publishers, and friends of libraries. The Association's mission is to provide leadership for the development, promotion and improvement of library and information services and the profession of librarianship in order to enhance learning and ensure access to information for all.

We understand the financial constraints faced by the Smithsonian Institution and other cultural trusts. Solutions must be found, but those solutions do not lie in a series of exclusive and, in this case largely exclusionary, business agreements with private companies. The Smithsonian Institution, while it has business-like needs and concerns, is not a business. It is taxpayer-supported (through direct appropriations of federal funds and through its tax-benefited status as a 501(c)(3) organization) and is the guardian of our cultural heritage. Indeed, the bequest of James Smithson came with a stipulation, which the U.S. Congress accepted: the Smithsonian Institution was to be "an Establishment for the increase and diffusion of knowledge."

Moreover, many of the collections given to the Smithsonian have been placed in the Institution's hands in trust, to be maintained and made accessible to the public. This is not, therefore, simply a matter of from where the revenue derives. It is a matter of public accountability and public confidence: maximum feasible transparency in the arrangements for these collections is an essential component of that trust.

From what we understand of this contract, access to the collections and archives of the Smithsonian will not be limited, but use will, including the ability to utilize the professional skills and expertise of the Institution's curators, scientists and other staff. As librarians, we see this agreement with Showtime as analogous to a library signing an agreement with some publisher that would allow patrons to come in and look at the books and other resources of the library, but not to take them off the shelf, to check them out - or to talk with the librarians for assistance and information!

ALA is

also concerned that this contract with Showtime Networks, and other contracts in the works, may severely impede the ability of the Institution to digitize the collections it houses coherently and systematically, either for preservation or for public access and use. While such an undertaking could reasonably be taken with private companies, the underlying materials and the data files created must remain in the exclusive control of the Institution. We understand that the Smithsonian's practice has been to retain control, but we would appreciate assurance that the contract with Showtime Networks - or any future contract - does not violate this fundamental principle.

Last year, the Smithsonian Institution's Business Ventures Unit announced an exclusive publishing partnership with HarperCollins Publishers to create a line of high quality, Smithsonian-branded, reference and adult nonfiction books. It was announced that HarperCollins would also be the exclusive distributor of the Smithsonian Books' backlist. That contract has not been made public, so we do not know how exclusionary it is. We have no evidence that any prospective author has had to clear her or his use of materials in the Institution or discussions with Smithsonian curators or scientists, so we believe that the HarperCollins agreement is not as exclusionary as the Showtime arrangement appears to be. However, the HarperCollins agreement does seem to have laid the groundwork for this current venture with Showtime Networks. Sole-source contracting is particularly inappropriate for the nation's cultural stewards.

The preeminent standing of the Smithsonian in our society requires that such substantial changes in how Americans can gain access to its collections and use those collections must only occur after extensive public discussion and review. We urge Congress to require that the Smithsonian Institution annul the contract between Smithsonian Business Ventures and Showtime Networks, because it was awarded without requisite public discussion, and we urge you to require the disclosure of the terms of the contracts with Showtime Networks, HarperCollins Publishers, and any other agreements, the details of which are unknown to the public, that limit access to or use of the collections, archives, and the professional staff of the Smithsonian Institution.

Thank you. I will be happy to answer any questions you might have.